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April 12, 2007

By E-Filing

Hon. Gregory M. Sleet
United States District Court
844 N. King Street
Wilmington, DE 19801

Re: Transmeta Corp. v. Intel Corp., C.A. No. 06-633

Dear Judge Sleet:

Pursuant to the Court's direction at the April 4, 2007 Scheduling Conference, we are filing herewith for the Court's consideration a Proposed Scheduling Order which reflects the dates the Court set at that conference.

Respectfully,

/s/ Karen Jacobs Louden

Karen Jacobs Louden (#2881)

/cbh
Enc.

cc: Clerk of the Court (by hand) (w/enc.)
John W. Shaw, Esq. (by hand) (w/enc.)
Matthew D. Powers, Esq. (by email) (w/enc.)
Robert C. Morgan, Esq. (by email) (w/enc.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TRANSMETA CORPORATION,)	
)	
Plaintiff,)	
)	
)	
v.)	C.A. No. 06-633 (GMS)
)	
INTEL CORPORATION,)	
)	
Defendant.)	

SCHEDULING ORDER

This _____ day of April 2007, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on April 4, 2007, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures.** Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before April 11, 2007.
2. **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before August 1, 2007.
3. **Reliance Upon Advice of Counsel.** The parties shall advise each other whether they intend to rely upon advice of counsel as a defense to willful infringement no later than October 15, 2007. If either party elects to rely on advice of counsel as a defense to willful infringement, it shall produce any such opinions on which it intends to rely no later than October 15, 2007.

4. **Markman Claim Construction Hearing.** A *Markman* claim construction hearing shall be held on December 18, 2007 at 9:30 a.m. The *Markman* hearing is scheduled for one day with the time being divided equally between the parties. The parties shall meet and confer by September 14, 2007 regarding narrowing and reducing the number of claim construction issues. On or before October 5, 2007, the parties shall submit a Final Joint Claim Chart which shall include citations to intrinsic evidence. The plaintiff shall submit to the court a Joint Appendix of Intrinsic and Extrinsic Evidence (the "Joint Appendix") containing all intrinsic and extrinsic evidence relied upon in the claim construction briefing. A sample table of contents of the Joint Appendix can be located on this court's website at www.ded.uscourts.gov. The Joint Appendix shall be filed on the same day as the answering claim construction briefs. The parties shall file opening claim construction briefs on October 19, 2007, and answering claim construction briefs on November 9, 2007.

5. **Discovery.** All fact discovery in this case shall be initiated so that it will be completed on or before February 1, 2008. Opening expert reports on issues on which a party bears the burden of proof shall be served on or before February 29, 2008. Rebuttal expert reports shall be served on or before April 4, 2008. Expert Discovery in this case shall be initiated so that it will be completed on or before May 9, 2008.

a. **Discovery and Scheduling Matters:** Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample letter can be located on this court's website at www.ded.uscourts.gov. After the parties have had

three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the court should permit a fourth discovery teleconference. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

6. **Confidential Information and Papers filed under Seal.** Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order. When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 5(a).

7. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to the United States Magistrate for the purpose of exploring the possibility of a settlement.

8. **Summary Judgment Motions.** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief shall be no longer than five (5) pages and shall be filed with the Court no later than April 18, 2008. Answering letter briefs shall be no longer than five (5) pages and filed with the court no

later than April 25, 2008. Reply letter briefs shall be no longer than three (3) pages and filed with the Court on or before May 2, 2008. The Court shall hold a telephone conference to hear argument and to determine whether the filing of any motion for summary judgment will be permitted on May 15, 2008 at 11:30 a.m. **Unless the Court directs otherwise, no letter requests to file a motion for summary judgment may be filed at a time before the dates set forth in paragraph 8.**

9. **Case Dispositive Motions.** All case dispositive motions and an opening brief and affidavits, if any, in support of the motion shall be served and filed on or before the later of May 30, 2008 or two (2) weeks after the Court's determination as to the filing of summary judgment motions. Answering briefs shall be served and filed three (3) weeks after the opening briefs, and reply briefs shall be served and filed two (2) weeks after the answering briefs. Any request for extensions of time as set forth in this Scheduling Order **must** be accompanied by an explanation or the request will be denied.

10. **Applications by Motion.** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

11. **Oral Argument.** If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

12. **Daubert Issues.** The Court will address Daubert issues at the Pretrial Conference.

13. **Pretrial Conference.** On November 3, 2008, beginning at 10:00 a.m., the Court will hold a Pretrial Conference in Chambers with counsel. Unless otherwise ordered by the

Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at www.ded.uscourts.gov. Thirty (30) days before the Joint Proposed Pretrial Order is due, plaintiff's counsel shall forward to defendant's counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft. Defendant's counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft as well as the information defendant proposes to include in the proposed pretrial order. **Motions in limine:** No party shall file more than five (5) motions *in limine*. Motions *in limine* shall be filed by September 15, 2008. Answering briefs shall be filed by September 26, 2008. Reply briefs shall be filed by October 3, 2008. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages. The parties shall file with the court the Joint Proposed Final Pretrial Order with the information required by the form of Final Pretrial Order which can be located on this court's website at www.ded.uscourts.gov on or before close of business on October 6, 2008.

14. **Trial.** This matter is scheduled for a four (4) week jury trial beginning at 9:00 a.m. on December 1, 2008.

15. **Scheduling:** The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

UNITED STATES DISTRICT JUDGE